

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JHENY RUILOVA,

Plaintiff,

v.

861 REST. INC. d/b/a PARK CAFÉ and SOPHOCLES  
DERTOUZOS a/k/a SOFOKELIS DERTOUZOS, jointly  
and severally,

Defendant(s)

Civil Action No. 16-cv-5244

**DEFENDANTS' ANSWER TO  
PLAINTIFFS' COMPLAINT**

Defendants 861 REST. INC. d/b/a PARK CAFÉ and SOPHOCLES DERTOUZOS a/k/a SOFOKLIS DERTOUZOS (collectively, the “Defendants”) by and through their attorneys Maniatis & Dimopoulos, P.C. hereby answer the Plaintiffs’ Complaint (“Complaint”) as follows:

1. Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph(s) 1, 2, 3, 7, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 of the Complaint.

2. The allegations in paragraphs 4, 5, 6, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44 and 48 set forth legal conclusions to which no response is required, and if any further response is deemed necessary, denies knowledge or information sufficient to form such a belief.

3. Defendants admit the allegations contained in paragraph(s) 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of the Complaint.

**AFFIRMATIVE DEFENSES**

Without admitting any of the allegations contained in the Complaint, and without assuming any burden of proof it does not have as a matter of law, Defendants assert the following:

1. The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. Defendants acted in good faith and with a reasonable belief that their practices complied with federal and state law.

3. Plaintiffs may not recover liquidated damages because (i) Defendants acted reasonably and in good faith and did not commit any willful violation of any of the provisions of the FLSA or New York Labor Law; (ii) Defendants did not authorize or ratify any willful violation with respect to the Plaintiffs; and (iii) Plaintiffs have failed to plead facts sufficient to support recovery of such damages.

4. Plaintiffs' Complaint should be dismissed because Plaintiffs have failed to satisfy the statutory prerequisites and requirements for bringing some or all of the claims alleged in the Complaint, and failed to exhaust his administrative remedies.

5. Plaintiffs' Complaint, in whole or in part, is barred by the applicable Statute of Limitations.

6. Plaintiffs' claims should be dismissed in whole or in part because Defendants did not aid, abet, acquiesce or condone any alleged unlawful conduct toward Plaintiff'.

7. Plaintiffs' claims are barred in whole or in part because Plaintiffs did not suffer any damages attributable to any allegedly wrongful conduct of Defendants.

8. Plaintiffs' claims are barred, in whole or in part, by the equitable doctrines of estoppels, unclean hands, waiver and/or set-off.

9. At all relevant times, Defendants acted in good faith and did not violate any rights which may be secured to plaintiff under any federal or state laws, rules, regulations or guidelines.

10. The damages and relief sought in Plaintiffs' Complaint are, in whole or in part, not legally authorized.

11. Defendants at all times complied with all FLSA and NY Labor Law record keeping requirements.

12. Defendants reserve the right to assert additional defenses and defenses upon further information regarding Plaintiffs' claims and upon the development of other relevant information.

**DEMAND FOR TRIAL BY JURY**

13. Pursuant to Fed. R. Civ. P. 38(b), Defendants demand a trial by jury.

WHEREFORE, Defendants respectfully request that the Court:

- (a) Dismiss the Complaint in its entirety with prejudice;
- (b) Deny each and every demand and prayer for relief therein;
- (c) Award Defendant its reasonable costs and fees incurred in defending this action; and
- (d) Grant such other and further relief to Defendant as the Court deems just and proper.

Dated: Tuckahoe, New York  
September 5, 2016

MANIATIS & DIMOPOULOS, P.C.

By:     /s/ Constantine Dimopoulos      
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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2016, a true and correct copy of Defendants' Answer to Plaintiffs' Third Amended Complaint served upon Plaintiff's counsel of record Law Office of Justin A. Zeller, P.C., 277 Broadway, Suite 408, New York, New York 10007 via electronic filing.

By: /s/ Constantine Dimopoulos